

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

United States of America,

Case No. 20-cr-272 (PAM/TNL)

Plaintiff,

v.

ORDER

Dean Jerome Berg,

Defendant.

This matter comes before the Court on Defendant Dean Jerome Berg's Motion for Extension of Time to File Motions, ECF No. 36. Defendant has also filed a Statement of Facts in Support of Exclusion of Time Under Speedy Trial Act, ECF No. 37.

Defendant moves to continue the motions-filing deadline to August 4, 2022, due to "ongoing discussions between the parties as to a potential resolution." ECF No. 36 at 1. The Government has no objection to the requested extension. ECF No. 36 at 1.

Additionally, beginning on March 13, 2020, and continuing thereafter, the Chief District Judge for the United States District Court for the District of Minnesota, has issued a series of General Orders in connection with the COVID-19 pandemic, addressing, among other things, criminal proceedings and trials.¹ On June 1, 2022, the Chief Judge entered General Order No. 36, which allows limited in-person proceedings for defendants who decline to consent to conducting the proceeding using videoconferencing, or telephone

¹ All General Orders related to the COVID-19 pandemic may be found on the Court's website at <https://www.mnd.uscourts.gov/coronavirus-covid-19-guidance>.

conferencing if videoconferencing is not reasonably available. *See generally In re: Updated Guidance to Court Operations Under the Exigent Circumstances Created by COVID-19*, Gen. Order No. 36 (D. Minn. June 1, 2022). General Order No. 36 states that because only limited in-person proceedings may be held each day, criminal proceedings may be continued until the date that the criminal proceeding takes place.

General Order No. 36 continues to encourage the use of videoconferencing in criminal proceedings and states that, with the defendant's consent, criminal proceedings will be conducted by videoconferencing, or telephone conferencing if videoconferencing is not reasonably available.² General Order No. 36 further provides that the presiding judge will enter orders in individual cases to extend deadlines and exclude time under the Speedy Trial Act to address delays attributable to COVID-19. **Accordingly, should Defendant file pretrial motions, counsel shall also file a letter indicating whether Defendant consents to a motions hearing by videoconference.** *See also* ECF No. 35.

Pursuant to 18 U.S.C. § 3161(h), this Court finds that the ends of justice served by granting a continuance outweigh the best interests of the public and Defendant in a speedy trial and such continuance is necessary to provide Defendant and his counsel reasonable time necessary for effective preparation and to make efficient use of the parties' resources. Based on all the files, records, and proceedings herein, **IT IS HEREBY ORDERED** that:

² *See also* General Order No. 35, which went into effect on March 21, 2022, vacated General Order No. 33, and extended the Court's authorization to conduct certain criminal proceedings via video or telephone conference pursuant to the CARES Act “[b]ecause the emergency created by the COVID-19 outbreak continues to materially affect the functioning of court operations in the District of Minnesota.” *In re: Updated Guidance to Court Operations Under the Exigent Circumstances Created by COVID-19*, Gen. Order No. 35 (D. Minn. March 21, 2022).

1. Defendant's Motion for Extension of Time to File Motions, ECF No. 36, is

GRANTED.

3. The period of time from **July 19 through August 30, 2022**, shall be excluded from Speedy Trial Act computations in this case.

4. All motions in the above-entitled case shall be filed and served consistent with Federal Rules of Criminal Procedure 12(b) and 47 on or before **August 4, 2022**. D. Minn. LR 12.1(c)(1). Two courtesy copies of all motions and responses shall be delivered directly to the chambers of Magistrate Judge Leung.

5. **Should Defendant file pretrial motions, counsel shall also file a letter on or before August 4, 2022, indicating whether Defendant consents to a motions hearing by videoconference.** *See also* ECF No. 35.

6. Counsel shall electronically file a letter on or before **August 4, 2022**, if no motions will be filed and there is no need for hearing.

7. All responses to motions shall be filed by **August 18, 2022**. D. Minn. LR 12.1(c)(2).

8. Any Notice of Intent to Call Witnesses shall be filed by **August 18, 2022**. D. Minn. LR. 12.1(c)(3)(A).

9. Any Responsive Notice of Intent to Call Witnesses shall be filed by **August 23, 2022**. D. Minn. LR 12.1(c)(3)(B).

10. A motions hearing will be held pursuant to Federal Rules of Criminal Procedure 12(c) where:

- a. The government makes timely disclosures and a defendant pleads particularized matters for which an evidentiary hearing is necessary; or
- b. Oral argument is requested by either party in its motion, objection or response pleadings.

11. **If required, the motions hearing shall take place before the undersigned on August 30, 2022, at 9:00 a.m., in Courtroom 9W, Diana E. Murphy U.S. Courthouse, 300 South Fourth Street, Minneapolis, Minnesota. D. Minn. LR 12.1(d).**

12. **TRIAL:**

- a. **IF NO PRETRIAL MOTIONS ARE FILED BY DEFENDANT, the following trial and trial-related dates are:**

All voir dire questions and jury instructions must be submitted to District Judge Paul A. Magnuson on or before **November 14, 2022**.

This case must commence trial on **November 28, 2022, at 9:00 a.m.** before District Judge Magnuson in Courtroom 7D, Warren E. Burger Federal Building and U.S. Courthouse, 316 North Robert Street, SAINT PAUL, Minnesota.

- b. **IF PRETRIAL MOTIONS ARE FILED, the trial date, and other related dates, will be rescheduled following the ruling on pretrial motions. Counsel must contact the Courtroom Deputy for District Judge Magnuson to confirm the new trial date.**

Dated: July 27, 2022

s/ Tony N. Leung
TONY N. LEUNG
United States Magistrate Judge
District of Minnesota

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